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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/057,313	04/08/1998	JOHN D. MCCOWN	033449-002	6282

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EXAMINER	
MCALLISTER, STEVEN B	
ART UNIT	**PAPER NUMBER**
3627	

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/057,313	Applicant(s) McCown et al
	Examiner Steven McAllister	Art Unit 3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Oct 3, 2003*.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *16-19, 21-23, 25-35, 37-40, 42-44, 46-48, and 50-54* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *16-19, 21-23, 25-35, 37-40, 42-44, 46-48, and 50-54* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/3/03 has been entered.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 16-19, 27, 28, 33, 37-40 and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar) and Backteman et al.

Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28); individual lifting of containers comprising strapped pallets (col. 1, lines 28-30), transporting them with a vehicle onto a ship, positioning them and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar.

Freeman also shows using a ramp to move a forklift to and from a ship. It inherently discloses that the deck is strong enough to support the vehicle since the method would not be functional otherwise. Freeman does not show using a container having a set of outer walls defining an inner volume and having freight loaded therein; loading freight in the inner volume of the containers; that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle; securing the container to the deck; or that the wheels of the vehicle are in contact with the support surface during lifting and positioning. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see e.g., p. 5); and that the vehicle includes a body and gripper, the gripper portion including a spreader attachment, said gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally). Kalmar further shows that the wheels of the vehicle are in contact with the support surface during lifting and positioning (see photos of Kalmar). Kalmar inherently shows loading the container since discusses loaded containers and the step of loading the container must inherently be performed (p. 11, line 2). It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture. Backteman et al show securing the containers to the deck via twistlocks (col. 1, lines 39-40; abstract, Fig. 1). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the containers as taught by Backteman et al in order to prevent the stacks of containers from tipping over.

As to claim 17, it is noted that Backetman et al show securing the containers to the deck by semiautomatic twistlocks.

As to claims 18 and 19, it is noted that Backetman et al discloses containers C capable of allowing interconnection of containers by semi-automatic (Fig. 2) twistlocks in a stacked environment. Both Backetman et al (Fig. 1) and Freeman (pg. 1, col. 1, line 29) disclose stacking containers.

As to claim 33, it is inherent that the container is at least partially entered by a workman or vehicle in order to load since the workman or vehicle must handle the load.

As to claim 37, raising, lowering, rotating and inclining the gripping portion for each container is inherent in the reach stacker of Charles.

As to claims 38 and 39, each container has a pair of receptacles for spreader attachment adjacent the top edge of the container (Fig. 1).

As to claim 40, Freeman in view of Backetman et al and Charles show all elements of the claim except securing the ramp with a longitudinal rail using a downwardly extending lip. However, it is old and well known in the art to secure a ramp to a longitudinal rail using a downwardly extending lip (such as hooking the lip of a ramp over a longitudinal rail on the back of a moving truck). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the depending lip of the ramp with a longitudinal rail in order to keep the ramp from slipping and increase safety.

As to claim 42, Kalmar further shows that lifting and positioning include moving the gripping portion relative to the body portion of the vehicle and that the lifting and positioning steps are carried out without the use of outriggers (see photos of Kalmar).

As to claim 43, it is noted that Kalmar shows that positioning and lifting includes extending a boom of the vehicle (see photos).

As to claim 44, Kalmar shows that the vehicle does not include outrigger supports.

4. Claims 22, 23 and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar).

Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28); individual lifting of containers (col. 1, lines 28-30), transporting them with a vehicle from the ship to a warehouse on the dock, positioning them and placing them there (col. 1, lines 30-32). Freeman also shows using a ramp to move a forklift to and from a ship. It inherently discloses that the deck is strong enough to support the vehicle since the method would not be functional otherwise. Freeman does not show using a container having a set of outer walls defining an inner volume and having freight loaded therein; that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle; or that the wheels of the vehicle are in contact with the support surface during lifting and positioning. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see e.g., p. 5); and that

the vehicle includes a body and gripper, the gripper portion including a spreader attachment, said gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally). Kalmar further shows that the wheels of the vehicle are in contact with the support surface during lifting and positioning (see photos of Kalmar). It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture.

As to claim 23, Freeman in view of Kalmar show all elements of the claim except securing the ramp to a longitudinal rail. However, it is old and well known in the art to secure a ramp to a longitudinal rail (such as hooking the lip of a ramp over a longitudinal rail on the back of a moving truck). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the ramp with a longitudinal rail in order to keep the ramp from slipping and increase safety.

As to claim 46, Kalmar further shows that lifting and positioning include moving the gripping portion relative to the body portion of the vehicle and that the lifting and positioning steps are carried out without the use of outriggers (see photos of Kalmar).

As to claim 47, it is noted that Kalmar shows that positioning and lifting includes extending a boom of the vehicle (see photos).

As to claim 48, it is noted that Kalmar show that the vehicle does not include outrigger supports.

5. Claims 21, 25, 26, 32, 34, and 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art method shown in Freeman in view of the Kalmar website (Kalmar).

As to the base claim 25, Freeman in its discussion of the prior art (generally col. 1, lines 20-38) discloses selecting a plurality of containers comprising the strapped pallets (col. 1, lines 28-30); providing a vehicle (col. 1, line 28) including wheels which are configured to roll on a support surface; repeated lifting of containers comprising strapped pallets (col. 1, lines 28-30), transporting them with a vehicle onto a ship, positioning them and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar. Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3). Freeman does not show using a container having a set of outer walls defining an inner volume and having freight loaded therein or that the vehicle includes a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body of the vehicle, or that the wheels of the vehicle are in contact with the support surface during lifting and positioning steps. Kalmar shows providing containers adapted to contain freight in a marine environment having a set of outer walls defining an inner volume (see e.g., p. 5); and that the vehicle includes a body and gripper, the gripper portion including a spreader attachment, said gripper capable of being raised, lowered, rotated and inclined relative to the body (see e.g., p.8 and all photos generally), and that the wheels are in contact with the support surface during lifting and

positioning steps. It would have been obvious to one of ordinary skill in the art to modify the method of Freeman as taught by Kalmar in order to protect the product shipped from moisture.

As to claim 21, Freeman also shows unloading the containers at a destination (col. 1, lines 31-33).

As to claim 26, it is noted that in the method of Freeman in view of Kalmar, it is inherent that the vehicle release the container since the containers must be released to be stacked as shown.

As to claim 32, it is noted that Kalmar shows each container having a bottom, roof, and a plurality of side walls.

As to claim 34, it is noted that Freeman in view of Kalmar shows a reach stacker.

As to claim 50, it is noted that Kalmar shows that the lifting and positioning steps include moving the gripping portion relative to the body portion without the use of any outriggers (see photos).

As to claim 51, it is noted that Kalmar shows extending the boom during positioning and lifting.

As to claim 52, it is noted that the vehicle of Kalmar does not include outrigger supports.

As to claim 53, it is noted that Kalmar shows stacking at least three containers high (e.g., p. 9).

6. Claims 35 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Kalmar as applied to claim 25 above, and further in view of Backteman et al (3,691,595).

As to claim 35, it is noted that Freeman in view of Kalmar discloses towing the marine vessel since it discloses a barge and barges are towed. It does not disclose securing containers to a support surface. Backetman et al show securing the containers to the support surface via twist-locks. It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the containers in order to prevent the stacks of containers from toppling over.

As to claim 54, Freeman in view of Kalmar and Backteman et al show all elements of the claim except a pointed bow on the ship. However, it is notoriously old and well known in the art to make a marine vessel with a pointed bow. It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by using such a vessel in order to more easily cut through the water.

Response to Arguments

7. Applicant's arguments filed 10/3/03 have been fully considered but they are not persuasive.

Applicant argues that the combination of the prior art of Freeman with Kalmar is inoperable because of the size of the reach stacker of Kalmar and the larger load it is capable of carrying. However, inherent in the modification of the method of prior art of Freeman is to use support structures capable of supporting the reach stacker and its load. One of ordinary skill in the art in modifying the method of the base reference would use appropriately scaled supports.

Further, regarding the size of the containers, Kalmar is not used to teach a particular size of container. Rather, it merely teaches an enclosed container suitable for a marine environment.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052.

Steven B. McAllister

November 3, 2003